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AUDIT OF THE PBS

NATIONAL BROKER CONTRACT

REPORT NUMBER A0700228/P/W/R11004

December 22, 2010

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Restricted Report

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Office of Inspector General
General Services Administration

Office of Audits

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U.S. GENERAL SERVICES ADMINISTRATION
Office of Inspector General

Date: December 22, 2010

Reply to Attn of: [redacted]
Regional Inspector General for Auditing
National Capital Region Field Audit Office, Office of Inspector General (JA-W)

Subject: Audit of the PBS National Broker Contract
Report Number A070228/P/W/R11004

To: Robert A. Peck
Commissioner
Public Buildings Service (P)

This report presents the results of our audit of the Public Buildings Service's (PBS) National Broker Contract (NBC). We previously held an exit conference with your staff regarding the discussion draft and received PBS's comments to the draft report. PBS's comments are included in their entirety in Appendix A.

Background

Prior to 2004, the PBS's broker real estate services were provided through multiple zonal and regional contracts. As these contracts began to expire, the National Office of Realty Services,[1] in support of the General Services Administration's (GSA) strategic goal of "Operating Effectively and Efficiently," identified a need to award fewer broker service contracts to achieve consistency nationwide and to better manage the realty services program.

On March 5, 2004, PBS issued a Request for Proposals for a national real estate broker service contract to address this need. This solicitation sought bids for a multiple-award, indefinite delivery, indefinite quantity contract, with a base year and four 1-year option periods. To be considered responsive, a vendor had to provide services nationwide. Broker compensation was to be in the form of commissions paid by landlords; therefore, the Government contemplated no direct payment or reimbursement for contract services. The

[1] The national office charged with the National Broker Contract is now titled the Office of Real Estate Acquisition.

solicitation also required that each broker specify in its bid the percentage of its commission that it was willing to credit back to GSA in the form of a rent offset.

On October 4, 2004, GSA awarded contracts to the following four commercial brokers:

- Julien J. Studley (Studley)
- Jones Lang LaSalle Americas, Inc. (JLL)
- The Staubach Company (Staubach)[2]
- Trammell Crow (now CB Richard Ellis Real Estate Services, Inc. (CBRE)[3])

GSA exercised all four options, with the final annual option period expiring on March 31, 2010. In June 2010, GSA awarded the next generation of contracts.

There are four contract line items, or tasks, corresponding to the four types of real estate services provided under the contract:

- **Task 1** - Lease Acquisition Services, which includes:
    - Full and open competition,
    - Simplified lease acquisition,
    - Sole source succeeding,
    - Sole source superseding, and
    - National Capital Region's Advanced Acquisition Program projects;
- **Task 2** - Lease Expansions;
- **Task 3** - Lease Extensions; and
- **Task 4** - Market Data.[4]

The Government Accountability Office (GAO) had previously reviewed the NBC program. In its January 2007 report, entitled "*Initial Implementation of the National Broker Services Contracts Demonstrates Need for Improvements,"* GAO noted concerns related to mitigating conflicts of interest, potential program savings, and performance-based task order distribution. At the time of GAO's audit, only 479 commissionable NBC task orders had been issued with 11 leases awarded. Our audit revisited these topics with significantly increased NBC program activity.

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[2] Effective July 14, 2008, JLL acquired the Staubach contract due to the merger of Staubach with JLL. Thus, beginning October 1, 2008, there were only three remaining NBC contractors: Studley, JLL, and CBRE.

[3] Effective March 13, 2007, a contract modification with a change of name agreement transferred this contract from Trammell Crow to CBRE.

[4] The brokers were permitted to accept commissions for all task types except market data.

Results of Audit

At the time of our audit, the NBC had not reached the level of implementation nor generated the full cost savings and productivity gains originally anticipated. The contract also revealed the limitations of a commission-based compensation structure and the formidable challenges that come with administering an outsourced core function. The NBC did, however, demonstrate the viability of a centrally managed, national scope, commission-based lease acquisition services contract. Further, the national contract did not exhibit the procurement or funding irregularities we observed in the combination of zonal and regional contracts that preceded it. The contract also showed that conflict of interests can be managed.

The NBC business case anticipated a near complete outsourcing of the lease acquisition function to be accompanied by certain quantifiable cost benefits: (1) a commission credit applied as a rent cost offset; (2) reduced rental rates resulting from the brokers' superior market knowledge and expertise; and (3) lower administrative and personnel costs. While it is difficult to measure the workload accomplished by brokers, and the resulting impact on leasing operations, we calculated that brokers have been tasked with approximately 20 percent of comparable leasing actions. Of the expected cost benefits, the first can be confirmed: commission credits through July 2008 totaled $44 million or about 1.3 percent of a firm fixed lease value of $3.4 billion. The available data at the time of the audit did not establish whether brokers were achieving more favorable rental rates than GSA projects managed in-house - limited experience and imprecise market data precluded such a determination. At best, the data can support the assertion that brokers and PBS realty specialists were achieving similar results. As to lower administration and personnel costs, our analysis indicates no such reductions have occurred.

Brokers' Workload Expectations Were Unclear

Broker utilization as a percentage of PBS's total leasing workload was significantly less than the reported measure implied. We calculated that brokers have been tasked with approximately 20 percent of the expired lease workload over the 3 years reviewed during the audit. By comparison, PBS reported utilization rates that approached the 80 percent goal set for fiscal year (FY) 2008. The difference is due to the fact that PBS did not use its total leasing workload as the basis for measuring contractor utilization. Rather, PBS used a more narrowly defined workload for purposes of calculating its utilization rate by excluding actions from the anticipated expiring lease inventory that it deemed non-commissionable or otherwise excludable as broker tasks. A broader definition shows that the program fell well short of its original goal, which contemplated transferring nearly all the leasing workload to brokers.[5] It also fell short of the workload

[5] Leasing workload projections are essential to both PBS and broker resource planning. PBS has estimated workload both from project count and expected commission perspectives. Section B.2.1 of the NBC states, "GSA intends to procure follow-on leases utilizing contract services for at least 50 percent of this workload for each year of the contract." This language becomes more aggressive in the Administration Guide which states, "The goal is to issue at least 50% of the expiring lease workload in the first year of the contract to the contractors…As part of our Strategic Planning Initiative, which we shared with The Administrator and the entire Senior Management of our agency, PBS has committed to increasing our usage of the NBC by adding 10% of additional lease

anticipated by brokers when formulating their offers, which resulted in three of the four brokers earning fewer commission dollars through July 2008 than estimated by the contract. Further, the brokers expressed a uniform complaint that PBS's expectations for post award services, primarily oversight of the build-out or construction needed to ready the space for tenant-specific occupancy, exceeded the usual and customary practices for commission-based commercial services. This is significant, in that the legal justification permitting this form of "no cost" contract assumes that PBS's requirements are typical and reflective of services normally covered by commission. In fact, in its July 12, 2004, opinion B-302811, *General Services Administration and Real Estate Brokers' Commissions*, the GAO discussed how, *"GSA believes that the broker services it will acquire under the National Brokers Contract are services that brokers commonly provide tenants, and that it is not acquiring services for which brokers would expect to receive additional remuneration beyond that provided by the landlord's commission."* In allowing GSA to use a "no cost" contract structure, GAO accepted that the contract required services covered by the market commission.

Cost Savings Unclear

While the commission credits provided by the brokers reduced overall lease payments, it is not clear that other aspects of the program generated savings. At an aggregate level, PBS measured and reported the extent to which its leases are less costly than the market average by using a Lease Cost Relative to Market (LCRM) analysis as a performance indicator. One expectation for the NBC was that highly motivated commercial brokers could obtain even lower lease costs than their government counterparts, PBS realty specialists. To date, the data is too limited to permit meaningful comparison. We can state that the NBC performance charts a very similar pattern to PBS's non-NBC data, with no indication that the NBC is likely to perform significantly better or worse than PBS as seen in the diagram below.

requirements per year culminating in 90% utilization by 2010." This utilization goal, reduced to 80 percent for FY 2009, is the objective put forth to the regions and broadcast to external stakeholders.

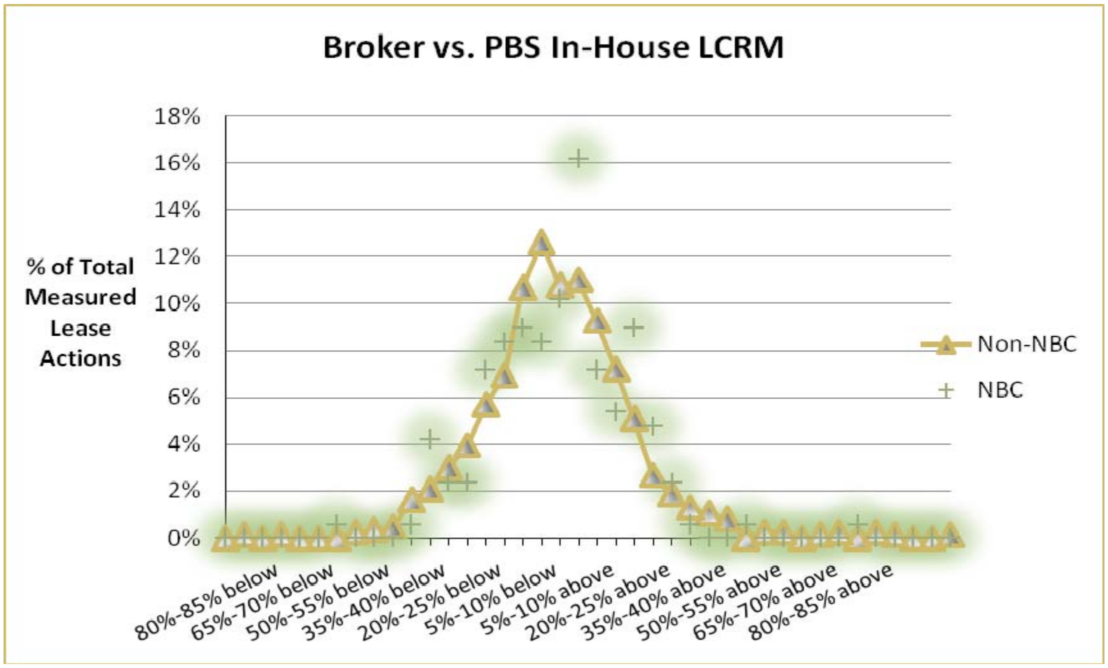

Figure 1 - Comparison of broker (NBC) versus PBS in-house LCRM

The LCRM data varies significantly around its mean. The data ranges from 74 percent above market to 67 percent below market for NBC leases and 142 percent above market to 91 percent below market for non-NBC leases handled by PBS. The generally bell-shaped curve appears to be shifted slightly towards a better LCRM (further below market value) which coincides with the fact that overall both NBC and non-NBC are meeting the LCRM goals of -8.5 percent in FY 2006, -8.8 percent in FY 2007, and -9.0 percent in FY 2008. Both NBC and non-NBC leases appear to have approximately the same distribution of LCRM. The data implies that brokers and PBS have achieved similar LCRM results since the assessment of the first NBC leases began in the first quarter of FY 2006; however, the trailing nature of this data, and a prolonged NBC project performance period, appear to exclude the use of LCRM as a performance incentive mechanism.

An additional PBS expectation was a reduction in personnel costs. We found that the NBC did not lower personnel costs; in fact, the number of in-house realty specialists actually increased at the time of our audit. The August 2002 PBS acquisition plan for the current NBC discussed the need to increase the amount of workload contracted out due to agency downsizing from attrition, noting that 40 percent of realty specialists were eligible for retirement by the end of FY 2005. By supplementing this downsized realty specialist population with the brokers, PBS planned to shift realty specialists to a project management role. Although PBS is continuing this shift, the number of realty specialists actually increased 11 percent. As already mentioned, even with the brokers, a substantial in-house workload remains.

Managing Conflict of Interest

PBS has designed, but does not fully administer, the controls necessary to identify and minimize the risk of conflict of interest (COI) relationships. COI concerns arise from brokers that, either organizationally or individually, stand to benefit from an undisclosed relationship with a potential lessor or other interested party. PBS determined that requiring brokers to self disclose any COIs prior to each lease action was the only practicable approach. Commercially, failure to disclose a COI subjects the firm to litigation risk and possible suspension or revocation of its broker's license. Brokers understand and manage this risk commercially so the disclosure provision incorporated by PBS is not seen as an extraordinary or unusual requirement. The goal was to manage the risk and minimize the impact of any potential conflict, which is only possible where PBS is first aware a conflict exists. It may then reassign the project, or in some cases permit the broker to proceed. In either instance, PBS is able to monitor the process to ensure a fair, competitive leasing process. PBS requires brokers to submit both organizational and individual COI disclosure statements, and to construct a "conflict wall" to safeguard procurement sensitive data for broker organizations that represent property owners as well as tenants. PBS has also centralized review and adjudication to ensure consistent implementation. As shown below, while the brokers nearly achieved compliance with the requirement to submit organizational COI forms, individual COI forms were missing for 35 percent of the broker associates working on the NBC projects in our sample. Missing COI forms negate a key control in mitigating potential or actual COI situations.

Organizational COI forms on file	92%
Individual COI forms on file	65%

Further, the conflict wall provision, or more specifically the related requirements of data security and procurement integrity, has engendered some valid criticism and complaint. Brokers CBRE and JLL expressed concern regarding the limited number of approved dual agency arrangements.[6] Both brokers argued that precluding dual agency arrangements removes them from the markets in which they have the greatest expertise. They note that the contract requires full service brokers to invest in establishing and maintaining a conflict wall,[7] including the government-unique requirements that arise under the Federal

[6] For the purposes of the NBC, dual agency is defined as a conflict of interest, "where the contractor represents the owner/landlord as the landlord's representative while representing the tenant as the tenant representative on the same transaction."

[7] Section H.5 (d) of the contract required brokers who represent building owners, representatives, or lessors to establish a "conflict wall." These dual agents, CBRE and JLL, would be subject to periodic inspection and verification of their conflict walls. The conflict wall required that the dual agent brokers: (1) inform all associates of the existence of the conflict wall and contract restrictions, (2) ensure establishment and maintenance of separate electronic file servers to prevent access to documents related to this contract (including from broker associates representing building owners or lessor), and (3) ensure paper files are kept, safeguarded, and maintained in separate, secure locations that preclude access to associates not working on this contract. PBS Counsel and the National Contracting Officer indicated that they verified the presence of the conflict walls during site visits to CBRE and JLL; the audit did not test the sufficiency of these assertions.

Information Security Management Act of 2002 (FISMA),[8] Federal Acquisition Regulation (FAR) Part 3,[9] and FAR Subpart 9.5.[10] Compliance with these provisions is a condition accepted by the brokers, with the understanding that PBS would in return permit dual agency arrangements. This has not, consistently, been the case. The brokers affected believe PBS has not acted in good faith. In response to this matter, PBS implemented a change in COI determinations effective October 29, 2008, in which PBS no longer reassigned task orders based on *potential* conflicts, rather only in actual cases.

Administration Limitations

PBS's infrastructure was designed to support in-house delivery of leasing services. The introduction of the NBC has tested, and in some aspects exceeded, the limits of that infrastructure. Limitations of PBS information systems have compromised oversight capabilities and inhibited NBC expansion, while an over-engineered performance evaluation process failed to provide timely, actionable feedback to brokers. As a result, planned performance-based task order distribution was not implemented.

Aspects of PBS's property management system – STAR (System for Tracking and Administering Real Property), and its document management system - eLease, have compromised oversight capabilities and inhibited NBC expansion. STAR does not identify whether or not a leasing project was handled by the NBC. The eLease system limitations preclude it from accurately reporting on NBC activity. Both brokers and contracting officer's technical representatives (COTR) cited aspects of eLease as factors contributing to NBC inefficiencies. While deemed an essential element of the NBC infrastructure, making it possible to share, review, and approve documentation electronically, eLease was not initially designed to accommodate the procurement oversight function. Subsequently modified to permit on-line milestone approval, it continues to receive criticism by users that view it as too rigid and cumbersome in actual application. Even we mistakenly assumed that this feature would limit our need to review hard documents. In fact, we found the eLease files to be incomplete and unreliable indicators of lease status. An incomplete lease file, no

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[8] FISMA compliance overlaps conflict wall provisions in that both call for physical and electronic controls to safeguard agency information. FISMA differs in that it is risk-based, applies to *information systems* as well as information supplied by or collected for GSA, and requires an annual test of information security controls. GAO first raised the issue of FISMA compliance in its audit report *GA0-07-17: Initial Implementation of the National Broker Services Contracts Demonstrates Need for Improvement,* January 2007, where it found that GSA had not assessed whether NBC program controls satisfied FISMA. While the contract does not incorporate a specific provision requiring broker compliance with FISMA, GSA has subsequently worked with its contractors to develop the required plans, testing, and monitoring procedures. As of the conclusion of our audit fieldwork, this effort remains a work in process. Reference 44 U.S.C. § 3541, *et seq.*

[9] FAR Part 3: *Improper Business Practices and Personal Conflicts of Interest*. In particular, FAR 3.104-2 implements section 27 of the Office of Federal Procurement Policy Act (the Procurement Integrity Act, 41 U.S.C. § 423). The provision is referenced in contract section H.5 (d)(6).

[10] FAR 9.5: *Organizational and Consultant Conflicts of Interest.* Specifically, the provisions of FAR 9.505-4, concerning access to proprietary data, are referenced in contract section H.5 (d)(7).

matter how easily accessible, is of limited value to approving officials. These limitations necessitate a resource-intensive workaround.

The NBC broker performance evaluation process is complicated, inefficient, difficult to administer, and fails to provide timely, actionable feedback to brokers. As a result, PBS resources are consumed in unnecessary administrative tasks, planned performance-based task order distribution has not been implemented, and broker performance, on average during our review, was acceptable but not exceptional. In our audit sample, 20 percent of required eLease evaluations were not completed. COTRs indicated that the lack of full compliance was due to workload constraints, which is to say completion of the evaluation is not a high priority task. To derive the intended benefit from its performance-based contract structure, PBS will need to re-emphasize to COTRs the significance of timely and complete feedback to brokers.

Additionally, NBC actions required lead time. While historical data was not available to allow a comparison of leasing timeframes for in-house versus NBC projects, there were a number of steps unique to NBC projects that, in our sample, added an average 1.6 months lead time to the leasing process. The average total elapsed time from task order issuance to lease execution was 11.9 months. As such, the lead time was more of a factor for smaller, simpler tasks; less of a factor for large, complex tasks. This coincides with a common sentiment expressed by PBS associates that for non-competitive actions, such as extensions, expansions, and succeeding leases, it may be expeditious to perform the task in-house.

Conclusion

The PBS NBC has shown that a national scope contract can attract competitive, qualified brokers able to deliver under a commission-based compensation formula. It has also shown that a substantial lease acquisition workload remains outside the scope of commission-based services. We also see that the shift away from in-house service delivery presents an additional administrative burden not fully supported by the existing business applications. It is unclear if the program, taken as a whole, can produce substantial cost savings, but the program does provide a capable, ready, and flexible source of acquisition support. Finally, the NBC has shown that commission-based compensation can be made compatible with federal appropriations law and that conflict of interest is a manageable risk.

The NBC expired on March 31, 2010. PBS issued the successor NBC to four brokers on June 21, 2010.[11] The successor contract is currently in its first of five potential performance years. There are no formal recommendations in this report. Rather, the findings are intended to assist in the administration of the successor contract.

[11] Successor contract brokers include CBRE, JLL, Studley, and UGL Equis Corporation.

Management Controls

We evaluated various management controls over STAR and eLease data, NBC project tracking, information system reporting capabilities, COI forms, and COTR approval of leasing milestones. The related control issues are discussed in the context of our results and findings. The audited contract expired in March 2010; the findings in this report should assist in the administration of the successor contract.

Management's Comments

The PBS Deputy Commissioner's response to this draft audit report is included in its entirety in Appendix A. While PBS disagreed with a number of our audit findings, PBS noted that many issues have been addressed with the award of the second generation NBC, as well as new processes and policies. The scope of this audit did not include examining changes made in the second generation contract.

Four areas of disagreement remain. First, we reassert our position that the LCRM measure only compares broker-negotiated rental rates against market, without enough data for comparison against in-house PBS realty specialists. Therefore, although PBS is aware that the brokers are achieving savings against market, it remains unclear how broker-achieved rental rates compare to rental rates negotiated in-house. Second, there is still disagreement with regards to calculating PBS's total leasing workload. The audit fieldwork included PBS's 2005 refined methodology. We reassert that workload analysis must include PBS's full leasing workload to yield meaningful results. Third, with regard to commissions earned, we disagree with including commissions in the pipeline in the analysis of commissions achieved by the brokers. Our fieldwork indicated that task orders issued to and worked on by brokers could be canceled prior to lease issuance, therefore resulting in no commission earned. Finally, we maintain that PBS's treatment of post award services differs from commercial practice. Even after PBS issued a modification to clarify the services required, confusion remained. Not only is a shared understanding of contract requirements essential for successful performance, but we maintain that the justification for a no cost contract is placed at risk if the contract departs from commercial practice.

APPENDIX A

MANAGEMENT'S COMMENTS

GSA Public Buildings Service

NOV 18 2010

MEMORANDUM FOR (b) (6) [redacted]
REGIONAL INSPECTOR GENERAL FOR AUDITING
NATIONAL CAPITAL REGION FIELD AUDIT OFFICE (JA-W)

FROM: (b) (6) [redacted] (b) (6) [redacted]
DEPUTY COMMISSIONER (PD)
PUBLIC BULDINGS SERVICE

SUBJECT: PBS Comments on Draft Report Audit of PBS National Broker Contracts, Report Number A070228

We appreciate the opportunity to comment on the PBS National Broker Contracts (NBC) Draft Audit Report. PBS has already addressed concerns identified in this draft audit report through the second generation of NBC contracts. Since the completion of this audit, PBS has implemented changes and streamlined processes to improve the utilization and administration of these contracts. Our detailed response to the specific points outlined in this report is enclosed in the following attachment.

Regarding the OIG concern that PBS anticipated lower lease costs by utilizing the broker contract, PBS asserts that this program has been successful by saving the government on rental rates as measured by our Lease Cost Relative to Market (LCRM) measure which yielded overall negotiated rent rates approximately 10.5 percent below market rates for 461 leases assessed through FY 2010 that amounts to approximately $27.5 million annually. The brokers continue to assist PBS in providing space to our agencies at rates that demonstrate significantly lower market rates, proving savings to our customers and the American public.

The OIG draft report also stated that NBC did not lower personnel costs, as anticipated. It is important to note that the number of in-house realty specialists did not decrease because the number of leasing specialists had dropped below a critical threshold necessary to manage the program at a time when the number of leases over recent years has continued to increase significantly. Leased space now exceeds the amount of owned space in PBS' inventory. Therefore, PBS agrees that a significant in-house workload remains, thus supporting the need for the continued use of these contracts. PBS must also appropriately plan for staffing changes, as a number of leasing associates eligible to retire continues to grow.

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PBS also disagrees with the OIG position that PBS' total leasing workload was significantly less than the reported measure, as certain leasing transactions have no potential broker commission and should not be included in the analysis. To further clarify, however, PBS refined its methodology of expected workload and goals for internal measuring purposes in 2005.

Additionally, the report incorrectly implies that the treatment of post award services in the contract differs from commercial practice undermining the legal justification for the 'no cost' contract. These are government service contracts and reflect mutual promises between PBS and the broker contractors. The treatment of post award services as a commercial practice is a function of what is negotiated between the principal and its broker agents and can vary. GAO was explicit in their opinion that there was ample consideration to support our arrangement. Furthermore, PBS conducted additional market research prior to issuing the Request for Proposals for the second generation contracts.

Regarding the OIG's concern of conflict interest, PBS continues to review and adjudicate Conflict of Interest disclosure statements through a centralized process to provide consistent implementation. As of September 30, 2010, PBS has had no protests on the expired contracts based on concerns surrounding conflicts of interest or dual agency.

Finally, the OIG expressed concern that PBS's information systems limited contract oversight and potential growth expansion. Since the issuance of this report, PBS has enhanced STAR and eLease information systems that have improved and streamlined the leasing process. PBS continues to enhance our systems to meet our leasing needs.

PBS understands the issues the OIG has presented in this draft audit report; however, we believe that these concerns have been already addressed through new processes and policies, as well as the award of the second generation of National Broker Contracts.

If you have any questions or need additional information, please do not hesitate to contact me at [redacted] Staff inquires can be directed to [redacted], Assistant Commissioner for the Office of Real Estate Acquisition. [redacted] can be reached at [redacted]

Attachment

2

PBS Comments to the Office of Inspector General Draft Audit Report:

PBS National Broker Contracts

Report Number A70228

Please review PBS's detailed comments in response to the draft audit report on the National Broker Contract.

Brokers' Workload Expectation were unclear

"Broker Utilization as a percentage of PBS's total leasing workload was significantly less than the reported measure implied." Page **4**

PBS Response: PBS agrees that a clear definition of workload is critical to accurate reporting and estimation of revenue; however, the contract is clear regarding the definition of workload and it would be inappropriate to compare broker task utilization as a percentage of total PBS leasing actions or activities. Removing expiring lease actions that have no potential for paying commissions is reasonable. There is no intent on the part of PBS to over-report utilization of the contracts.

The following is provided to explain our position.

1. National Broker Contract, Section B.2.1 General states: *"Exhibit 10 is a list of the projected nationwide expiring lease workload for a five-year period (FY 2006 through FY 2010). GSA intends to procure follow-on leases utilizing contract services for at least 50 percent of this workload for each year of the contract. In addition GSA may order lease acquisition services for new requirements or to replace an existing lease prior to its normal expiration. It has been GSA's experience for the past 10 years that the inventory increases by approximately two percent per year for new requirements."*

2. Steps were taken in November 2005 to clarify a methodology and definition of expected workload and associated goals for internal measurement purposes. The workload determination was clearly defined by the Office of Real Estate Acquisition (formerly Solutions Development Division) Center for Strategic Planning and Measurement in conjunction with the PBS Office of Budget and Finance and the Office of Management and Budget. The document Percent of Expiring Leases using the National Broker Contract, dated 11/4/05 states:

> *Purpose: Leasing property for Federal tenants is fundamental to GSA's mission statement as a provider of workspace. In FY05, GSA awarded four national Broker Contracts with the intention of increasing our capacity and leveraging our market share to gain better prices through use of our alliance partners. By comparing the number of task orders issued against the number of leases*

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expiring in each contract year, we will be able to measure the increase in our capacity to meet our customer's needs.

Scope: The National Broker Contract will be used to address PBS capacity issues in dealing with expiring leases. The list of expiring leases utilized for the measure for the contract year beginning in April 1, 2005 will be those leases expiring from April 1, 2006 – March 31, 2007. Similar methodology will be utilized for the contract year beginning April 1, 2006. A comparison of the numbers of expiring leases against the numbers of task orders issued against the National Broker contracts as reported monthly by the National Contracting Officer will be made to determine the progress of the program.

Goal Setting: The FY10 long-term goal is to utilize the national broker contract for 90% of expiring lease action and the FY06 goal is designed to move PBS towards this goal. The target for the first contract year, April 1, 2005 – March 31, 2006 is 50% of 1259 expiring leases pulled from a STAR snapshot on 9/30/05 by RPAM, (PVAC). The target for the second contract year, April 1, 2006 – March 31, 2007, will be established using the same methodology.

Goals: This is a national measure with a FY06 goal of 60%.

Results Computation: A STAR snapshot of expiring leases taken on 9/30/05 provides the total number of leases expiring from April 1, 2006 – March 31, 2007 for the first contract year, April 1, 2005 – March 31, 2005. Application of 50%, 60%, etc will be used to determine the number of task orders required to meet the goal. For example, the list utilized for the first contract year shows 1259 leases expiring during the referenced time frame. (50% x 1259 = 630) Therefore 630 task orders should be issued by the end of the first contract year for us to meet this measure. Succeeding years will be calculated in similar fashion."

The Draft Report states that the workload fell short of the workload anticipated by the brokers in formulating their offers. PBS contends the contract was very clear, that the $33 million in Section B was an estimate of commission potential to be used for determining applicability of clauses and Small Business evaluation for participation under the contract. Contract Section I, the last sentence of the introductory paragraph, states:

"The estimated contract value per contract, if four contracts are awarded, all options are exercised, and task orders are distributed evenly is $33,000,000."

"It also fell short of the workload anticipated by brokers when formulating their offers, which resulted in three of the four brokers earning fewer commission dollars through July 2008 than estimated by the contract." Pages 4 & 5

PBS finds this statement misleading and disagrees with the conclusion drawn by the IG in the Draft Report. We believe it important to clearly articulate PBS' position in the following paragraphs.

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In July 2008, PBS completed an analysis to investigate this complaint from the brokers. Our analysis found that the complaint was not valid then as commissions reported at that time exceeded the estimate provided in the contract. The difference between estimated commission dollars and actual commission dollars received is due to the lag time between issuance of a task order, lease award(s) and payment of commission(s), not because the amount of workload tasked to the contractors was less than expected. Exhibit 10 of the Contract estimated approximately 796 expiring leases and 13.9 million square feet of space as the workload for each Broker for a full five year term. Prorating for 3 years and four months yields an estimated workload at 313 task orders and 4.65 million square feet for each broker. Actual workload significantly exceeded estimates, especially for square footage which more closely relates to commission dollars than number of task orders. The table below supports that all four contractors had been tasked with more workload than the contract estimate.

Table A – As of July, 2008

Estimated workload per contract prorated through 3 years 4 months versus actual workload					
	CBRE	JLL	Staubach	Studley	total
Number of task orders					
contract estimate	313	313	313	313	1,252
actual	348	418	399	476	1,641
Usable Square Feet (millions)					
contract estimate	4.65	4.65	4.65	4.65	19
actual	8	7.3	7	9	31

When the aforementioned lag time is considered, each of the four contractor's commissions received, commissions earned but not yet received, and commissions in the pipeline far exceed the estimates in the contract for the period through July 2008 as demonstrated in Table B below.

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Table B – As of July, 2008

Commissions Received. Commissions Earned, but not yet Received and Commissions in Pipeline					
	CBRE	JLL	Staubach	Studley	Total
	All numbers in millions of $				
Contract Estimate of Commissions	$ 24.7	$ 24.7	$ 24.7	$ 24.7	$ 99.0
Received gross Commissions + Received or earned	$ 20.9	$ 17.1	$ 18.2	$ 51.2	$ 107.5
Pipeline	$ 45.3	$ 37.5	$ 54.5	$ 48.2	$ 190.0
Total	$ 66.2	$ 54.6	$ 72.7	$ 99.4	$ 297.5

Associated with these gross commissions set forth in Table A are $44 Million in rental credits received by the Government and another estimated $67.6 Million in credits remaining in the pipeline for the benefit of the Government.

Use of "earned commission" dollars identifies transactions that have progressed to lease award where the contractor receives a portion of total dollars for work completed. As commissions are negotiated amounts will vary depending on complexity and task type. Using the fair opportunity model as work progresses to equal levels of completion, commission levels should also be equalized

The program has continued to implement changes since the audit completion to improve both utilization and administration. As of September 2010, Brokers are reporting $299 Million in gross commissions received or earned as demonstrated in Table C below which significantly exceed the estimated commissions in the contract.

Table C – As of September, 2010

	Contract Estimate, Commissions Received, Commissions Earned but not yet Received and Commissions in Pipeline				
	CBRE	JLL	Staubach	Studley	Total
	All numbers in millions of $				
Projected Gross Commissions - Exhibit 10	$ 41.50	$ 41.50	$ 41.50	$ 41.50	$ 166.00
Gross commissions received and/or earned	$ 80,519,740	$ 65,651,504	$ 37,285,447	$ 115,170,698	$ 298,627,389
Estimated Gross commissions for 175 w/o signed leases in Pipeline	$ 83,008,334	$ 79,447,270	$ 22,627,545	$ 64,861,204	$ 249,944,352
Total Gross commissions	$ 163,528,074	$ 145,098,774	$ 59,912,992	$ 180,031,902	$ 548,571,742

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Associated with these gross commissions set forth in Table C are $121 Million in rental credits received by the Government and another estimated $95.7 Million in credits remaining in the pipeline for the benefit of the Government. These numbers indicate that while actual receipt of the revenue may have been slow, the potential was there and, based on the actual workload tasked, the commission revenue was in the pipeline.

PBS has incorporated many lessons learned from the development and administration of the first generation of these contracts and it is important to note that all three of the incumbents responded to the Request for Proposals and were selected for the second generation award.

Post Award Services, page 5

"*Further, the brokers expressed a uniform complaint that PBS's expectations for post award services, primarily oversight of the build-out or construction needed to ready the space for tenant specific occupancy exceeded the usual and customary practices for commission-based commercial services.*" Page 5

We strongly disagree with the Draft Report implication that the treatment of post award services in the contract is a departure from commercial practice that undermines the legal justification for the "no cost" contract. PBS agrees the NBC contracts were based in part on adopting commercial practices especially with regard to commission based pricing. However, they are government service contracts and reflect mutual promises between PBS and our contractors. The GAO opinion was explicit in noting there was ample consideration to support our anticipated arrangement. See GAO Title opinion B-291947, August 15, 2003, Note 1 where: "*The term "no cost contract" is somewhat of a misnomer, since there would be no valid contract without mutual consideration. We note that there is ample consideration to support this arrangement. See T.V. Travel Inc., 65 Comp. Gen. 109, 113 (1985) and 7 Comp. Gen. 810 (1928) (services rendered under a formal contract free of cost to the United States do not cause the contract to be void for lack of consideration when the contract also contains mutual promises of the contracting parties by which each contracting party obtains a substantial benefit)*". PBS disagrees that the issue regarding Post Award Services (PAS) jeopardizes the "no cost" contract assumptions. These tasks were clearly stated in the solicitation for the Broker firms to review and price accordingly. A pre-proposal conference was conducted offering the Broker community the opportunity to state that the Post Award Services expectations were above and beyond what was normally provided.

Market research completed prior to issuance of the Request for Proposals (RFP) indicated post award services were often handled by brokers in the commercial real estate industry. The four firms who received awards brought their concerns to PBS and PBS responded with a clarification to the contract to remove the subjectivity being applied by the regions to the contract requirement. Joint training was provided to every region immediately following the modification to further re-enforce the contract requirements. The brokers have continued to work the PAS resulting from the clarification. We acknowledge there was a need to clarify specific post award work to be performed under the NBC contracts and that we need to better define PAS for any follow-on contract. In reviewing the proposed NBC program, the GAO Decision B-

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302811 (page 6), issued July 12, 2004 in response to a Congressional inquiry regarding some aspects of the National Broker Contracts, states:

"From these discussions, and its knowledge of industry customer and practice, GSA determined that the contract services are those that are commonly paid for by commissions from landlords to brokers, not by tenants.

From both the professional literature and our informal consultation, we would agree. Our research indicates that while real estate brokers offer a wider range of services to their customer today....and the payment for those services, is subject to negotiation between the broker and its customer, the services listed in the National Brokers contract are services that brokers commonly provide to close a lease transaction and are services typically expected to be covered by landlords' commissions to brokers."

The reality is that the customary performance of PAS is a function of negotiations between the principals and the brokers. Interviewing brokers for their opinions on this issue should be accompanied by interviews with corporate real estate companies that employ commercial brokers in order to obtain a more balanced insight. PBS responded to this concern by conducting additional market research prior to issuing the RFP for the follow-on contracts.

Cost Savings Unclear

Lease Cost Relative to Market (LCRM), pages 5 &6

"One expectation for the NBC was that highly motivated commercial brokers could obtain even lower lease costs, than their government counterparts, PBS realty specialists."

PBS Response:

PBS agrees that, with 416 leases having been assessed for the Lease Cost Relative to Market (LCRM) measure, the findings support the proposition that the Brokers overall have negotiated rental rates that are equivalent to our in-house Leasing Specialists. The nature of the LCRM measure is such that any one transaction can cause significant swings or impacts to the overall measure results. The brokers continue to assist us in providing space to our agencies at similar rates that demonstrate significantly lower than market rates, proving savings to our customers and the government. The most recent data available indicates that the brokers have contributed to our success from contract start to the present. By negotiating 461 leases for over 8 million SF that in the aggregate are 10.5% below market midpoint, the brokers work has resulted in annual cost avoidance of $27.5 million. In FY2010, the LCRM performance for PBS as a whole was 9.86% below market. It should be recognized that the annual savings will continue for the life of each lease which in some cases is up to 10 years or more. Furthermore, LCRM results do not reflect estimated savings of $121 million from commission credits associated with 1864 leases awarded through September 2010. Historical commission credit rates are equal to 1.23% of total lease value.

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Expectations of personnel cost savings, page 6

"An additional PBS expectation was a reduction in personnel costs. We found that the NBC did not lower personnel costs; in fact, the number of in-house realty specialist actually increased at the time of our audit."

PBS experienced a *de facto* Leasing Specialist hiring freeze for nearly a decade which significantly impacted its ability to hire interns and train them appropriately. The number of leasing specialists had fallen below a critical threshold to manage the program at a time when the amount of leasing was increasing significantly. Leased space now exceeds the amount of owned space in the PBS inventory. The 11 percent increase referenced in the Draft Report reflects the recent ability to begin hiring staff to replace losses from retirement and other attrition. The number of associates eligible to retire continues to grow. Succession planning demands that a responsible agency consider the number of potential retirees. While an agency cannot control when personnel actually leave, it must plan appropriately for potential attrition to have trained personnel available to continue the mission of the agency. It can take up to five years to adequately train a new, inexperienced Leasing Specialist to become a fully warranted Lease Contracting Officer. PBS continues to experience a shortage of seasoned Lease Contracting Officers created by the extended hiring freeze. Interns must be hired as openings are approved so they will be qualified to perform the inherently governmental functions associated with the work of the agency.

PBS has not kept records on allocating workload to 1170 Realty Specialists that are fully or partially dedicated to broker task order oversight. It is important to note that the Draft Report does not recognize that the number of leases awarded and under administration has increased over the life of the contract as leased space now exceeds owned space in the PBS inventory. Therefore, because the workload grew significantly, we did not see a large reduction in leasing specialists and we could not have accomplished the additional workload without the use of the NBC.

PBS agrees that a substantial in-house workload remains, thus supporting the need for the continued use of these contracts.

Managing Conflict of Interest, page 6

"PBS has designed, but does not fully administer, the controls necessary to identify and minimize the risk of conflict of interest (COI) relationships."

"Further, the conflict wall provision, or more specifically the related requirements of data security and procurement integrity, has engendered some valid criticism and complaint."

PBS Response:

As the Draft Report states, PBS centralized review and adjudication of COI disclosure statements to ensure consistent implementation and we appreciate the recognition of the relatively high percentage of Organizational COI Forms compliance with contract requirements. We continue to re-enforce the requirement for Individual COI forms as personnel changes occur with the brokerage firms. We also continue to educate and re-enforce with PBS personnel the requirement to seek the individuals' forms when they see new individuals working on a particular task order.

PBS firmly believes that it acted in good faith during the early years of managing COI and Dual agency issues under the NBC contracts. Section H.5 of the contract states, "*The purpose of this clause is to avoid, neutralize or otherwise mitigate organization conflicts of interest that might arise…*"

PBS reassessed its position on avoiding dual agency completely, following several years of experience with conflicts of interest and the incorporation of new FAR clauses requiring contractor code of business ethics and conduct as well as, FISMA requirements. In the last two years of the contracts 14 task orders were allowed to proceed in the face of a dual agency by one of the two full service firms. As of the expiration of the contracts on September 30, 2010, PBS has had no protests based on concerns surrounding conflicts of interest or dual agency.

Administration Limitations

"*PBS's infrastructure was designed to support in-house delivery of leasing services. The introduction of NBC has tested, and in some aspects exceeded, the limits of that infrastructure. Limitations of PBS information systems have compromised oversight capabilities and inhibited NBC expansion, while an over-engineered performance evaluation process failed…*" Page 8

PBS Response: While the NBC contracts use brokerage services differently than in prior contracts, PBS has been using brokerage service contracts for approximately 20 years. Contending that "STAR and eLease have compromised oversight capabilities and inhibited NBC expansion" is a point of conjecture. Limitations in STAR and eLease would affect not only brokered transactions but acquisitions handled in-house as well. STAR was a commercial off-the-shelf inventory management system that was built before we awarded the NBC and impacts the NBC only because it feeds project information to eLease. eLease is a workflow automation tool that was initially designed prior to award of the NBC and continues to evolve as PBS modifies and streamlines it leasing processes. The application has been modified to permit on-line milestone approval, performance evaluations and the capability for brokers to respond in accordance with FAR 42.15. It has also been modified to provide an electronic COTR file to facilitate documentation of performance. Further enhancements will address more of the shortcomings and streamline the user experience. PBS has continued to emphasize the importance of consistent, timely performance evaluation to its COTR's and has seen a significant increase as COTR's become more familiar with the role of reviewing, inspecting, accepting, and providing comments. PBS agrees re-enforcement of that role is a continuing requirement.

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We disagree that timely actionable feedback to brokers was not occurring. While the number of evaluations in eLease was low during the first two years of the contract, the brokers have received quarterly performance evaluations since the contract started. Prior to the audit, efforts were under way to automate and improve the feedback process for contract services. The eLease application has been improved to provide timely notifications to contractors on the preparation of an evaluation by Government personnel. eLease tracks contractor responses for review and comment by regional program officials within 30 days of submission by the contractor. In addition to quarterly performance reviews, broker contractor personnel now receive timely and actionable feedback through eLease. This evaluation process follows the Office of Federal Procurement Policy (OFPP) guide on Best Practices for Collecting and Using Current and Past Performance Information.

While performance evaluation under the contracts may appear to be complex, it was determined that the complexity was necessary due to the complexity of the leasing process.

Recognizing the administrative burden of the NBC contracts, and given our continued experience with these contracts, PBS reduced the number of mandatory eLease evaluations, from 6 plus a final to 3 plus a final under the National Broker Contracts 2 awarded in June 2010. We continue to encourage consistent and timely feedback on an informal basis documented in writing via email or other means.

NBC actions required additional lead time. Page 8

"Additionally, NBC actions required lead-time."

Comparison of leasing timeframes for in-house versus NBC projects is difficult for numerous reasons. While PBS associates expressed their concerns to the auditors that NBC projects take longer, we have heard the same complaint from some of our customer agencies. PBS completed an analysis of this complaint and found it was not substantive based on the following reasons:

1. Some leasing specialists wait to input the project data for in-house projects until the lease is about to be signed or in some cases until the payment of rent is to begin. We are working to correct this delay in entering project data.
2. NBC leases are entered into STAR immediately because a STAR project number is required to issue the form 300. This form 300 authorizes the broker to start the lease procurement.
3. Project start dates for NBC projects do not necessarily reflect the dates in which the brokers were issued the task orders. It is possible that a leasing specialist may have initiated a project start date, with the task order not being issued for several weeks later.
4. In some instances, agency requirements submitted for tasking to the NBC were incomplete and task orders could not be issued until finalized.

PBS's opinion is that the problem is further exacerbated by the fact that leasing specialists ignore broker project submittals to complete in-house projects, as they feel more responsible for completing them timely. We agree that attention must be given to this procedural issue to

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improve the effectiveness of the contracts in increasing our capacity to deliver leases in a timely manner.

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APPENDIX B

OBJECTIVES, SCOPE, AND METHODOLOGY

The objectives of this audit were to: (1) assess the effectiveness of the Public Buildings Service's (PBS) National Broker Contract (NBC) program, specifically, how the program impacts PBS's leasing operations, (2) determine whether the program results in savings to the taxpayer, and (3) assess the internal control environment of the NBC program.

The audit covered contract activity from April 1, 2005, (contract inception) through July 31, 2008, focusing on 4 of GSA's 11 regions. These four regions each had a large number of expiring leases, high overall lease square footage, and a range of approaches to implementing the NBC. To assess NBC administration, we sampled 40 NBC projects that resulted in an awarded lease[12] (see Appendix B) and reviewed each related task order and lease file.

The audit team met with the National Program Manager, National Contracting Officer, regional program managers, regional contracting officers, and selected project COTRs and realty specialists to obtain an understanding of the NBC policies and operations. The areas we addressed and our audit approach to each are described below.

a. **Leasing workload**: We discussed workload estimates and assignment; discussed NBC activity tracking and data validation; researched ComprizonSuite and Business Objects for task order data; performed queries in STAR; compared NBC actions to the overall STAR leasing workload; assessed the NBC utilization rate; and determined the average procurement time of an NBC task order;

b. **Commissions**: We reviewed the contract, Administration Guide, and PBS policy regarding commissions and the commission agreement letter; analyzed commissions achieved in the audit sample; and discussed how the Standard Form 2 flows from the brokers to the regions to Central Office;

c. **Program savings**: We analyzed the number of realty specialists during the contract and researched any contracts for administration and construction management to determine any offset to program savings;

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[12] A judgmental sample of 40 NBC projects was drawn from PBS's September 19, 2007, task order log. This sample represented 4.4 percent of the 914 task types 1 through 3 awarded with an estimated occupancy date prior to March 1, 2008. Criteria for sample selection included lease award and a balancing of square-foot years (number of square feet leased multiplied by the lease term) among the regions. Note that square-foot years was used in the audit sample methodology but was not called for in PBS's task order distribution methodology. From November 27, 2007, to November 26, 2008, Region 4 had 16 percent of expiring leases, Region 9 had 13 percent of expiring leases, Region 5 had 11 percent of expiring leases, and Region 11 had 10 percent of expiring leases.

d. **Broker performance**: We reviewed the contract to determine broker performance requirements; discussed the plan for performance-based task order distribution; assessed eLease evaluation data integrity; summarized Contracting Officer's Technical Representative (COTR) feedback on the eLease evaluation process; attended quarterly evaluation meetings with the brokers; and analyzed the eLease *All Evaluations* report from inception to July 2008;

e. **Post award services**: We reviewed the contract and its modifications to determine requirements for post award services and the reasons for any changes; discussed broker involvement and performance in these services; and spoke with regional personnel regarding build-out projects;

f. **Lease Cost Relative to Market:** We reviewed the LCRM process; obtained LCRM data from and met with associates in the PBS Center for Strategic Planning/Measurement; reconciled LCRM data with NBC-specific LCRM data; analyzed LCRM data; and obtained a statistical study from the Office of Inspector General staff statistician;

g. **Conflict of Interest (COI)**: We reviewed the contract and Governmental Accountability Office decisions regarding the NBC; spoke with Counsel and the brokers regarding COI; reviewed the National Contracting Officer's COI tracking log to quantify the types of potential and actual COIs identified; reviewed sample lease files for evidence of situations that appeared to represent a COI or a potential COI; and compared the COI forms submitted on the audit sample projects with those required; and

h. **Broker meetings**: We met with brokers to discuss broker workload, interaction with the COTRs, the commission structure of the contract, post award services, and eLease access and usage.

The audit began in September 2007 and fieldwork was conducted from February 2008 through January 2009. We presented initial findings to the Agency in April 2009 and the Agency subsequently awarded a new contract in June 2010.

The audit was conducted in accordance with generally accepted government auditing standards for performance audits. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX C

40 SAMPLED NBC PROJECTS

#	Award Date	Region	Broker	Task Order #	Agency	STAR Project #	Square Feet
1	29-Mar-2006	4	CBRE	GS-P-04-06-BV-5056	ATF	6KY0005	7,577
2	27-Jul-2005	5	CBRE	GS-P-05-05-FY-0012	IRS	4IL0094	139,920
3	14-Dec-2005	5	CBRE	GS-P-05-06-FY-1005	SSA	5OH0144	7,013
4	26-Jan-2006	5	CBRE	GS-P-05-06-FY-1021	Fish and Wildlife	4MN0041	4,983
5	2-Mar-2006	9	CBRE	GS-P-09-06-KS-5003	IRS	5CA0642	29,314
6	10-Jun-2005	11	CBRE	GS-P-11-05-ZG-0223	EPA	5MD0154	69,109
7	14-Jul-2005	4	JLL	GS-P-04-05-BV-1006	SSA	5GA0075	7,790
8	15-Jul-2005	4	JLL	GS-P-04-05-BV-1007	SSA	5AL0063	9,034
9	6-Jan-2006	4	JLL	GS-P-04-06-BV-5029	SSA	5FL0268	14,126
10	2-Jun-2006	4	JLL	GS-P-04-06-BV-5077	OPM BUD MAN	6FL0130	1,742
11	19-Oct-2006	4	JLL	GS-P-04-07-BV-5004	SSA	6SC0031	13,651
12	5-Dec-2005	5	JLL	GS-P-05-06-FY-0023	IRS	3IL0007	10,020
13	16-May-2006	5	JLL	GS-P-05-06-FY-5014	Public Defender	4OH0079	4,645
14	3-Aug-2006	5	JLL	GS-P-05-06-FY-5053	FHA	3WI0007	5,600
15	22-Mar-2007	5	JLL	GS-P-05-07-FY-5028	US Customs	7OH2011	4,400
16	11-May-2005	9	JLL	GS-P-09-05-KS-0016	DHS	5CA0322	30,686
17	11-May-2006	11	JLL	GS-P-11-06-YE-5028	DOD	5DC0319	5,218
18	4-Oct-2005	4	Staubach	GS-P-04-06-BV-5001	SSA/OHA	5FL0166	1,230
19	12-Jan-2006	4	Staubach	GS-P-04-06-BV-5033	FTA	5GA0154	6,577
20	30-Jan-2006	4	Staubach	GS-P-04-06-BV-5039	FBI	4SC0012	3,240
21	27-Feb-2006	4	Staubach	GS-P-04-06-BV-5045	DHS/ICE	5FL0287	7,050

#	Award Date	Region	Broker	Task Order #	Agency	STAR Project #	Square Feet
22	11-Aug-2006	4	Staubach	GS-P-04-06-BV-5103	Fish and Wildlife	6FL0039	7,410
23	15-Aug-2006	4	Staubach	GS-P-04-06-BV-5104	Census	6NC0058	31,108
24	26-Jan-2006	5	Staubach	GS-P-05-06-FY-1022	SBA/OIG	6IL0009	1,500
25	12-Dec-2006	5	Staubach	GS-P-05-07-FY-5010	DOD-DCMA	6MI0079	7,517
26	29-Mar-2007	5	Staubach	GS-P-05-07-FY-5029	FMCS	4OH0082	5,901
27	1-Jul-2005	9	Staubach	GS-P-09-05-KS-0029	FBI	1CA0399	2,444
28	15-Jul-2005	9	Staubach	GS-P-09-05-KS-0036	SSA	1CA0664	7,751
29	3-Nov-2005	9	Staubach	GS-P-09-06-KS-0012	SSA	1CA0480	4,823
30	5-Jan-2006	9	Staubach	GS-P-09-06-KS-0031	HIS	3CA0757	2,150
31	26-Apr-2006	9	Staubach	GS-P-09-06-KS-5061	Fed Pub Defender	6CA0144	10,000
32	26-May-2005	11	Staubach	GS-P-11-05-YE-0397	DOD	5DC0089	49,560
33	7-Sep-2005	11	Staubach	GS-P-11-05-YE-0545	FDA	4MD0111	4,000
34	17-Feb-2006	11	Staubach	GS-P-11-06-YE-0228	FDA	LMD60327	86,957
35	11-Jan-2006	4	Studley	GS-P-04-06-BV-5032	DOT-PHMSA	5GA0144	4,826
36	15-May-2006	5	Studley	GS-P-05-06-FY-5011	US Customs	6MN0050	4,400
37	27-Jun-2006	5	Studley	GS-P-05-06-FY-5036	IRS	1MI0116	6,104
38	20-Jun-2005	9	Studley	GS-P-09-05-KS-0023	SBA	4CA0693	17,312
39	5-Nov-2005	9	Studley	GS-P-09-06-KS-0015	HUD	5CA0484	5,821
40	2-Mar-2006	9	Studley	GS-P-09-06-KS-5005	IRS	4CA0686	9,898

APPENDIX D

COMMISSION DATA FOR TOP 20 LEASE VALUES PER BROKER (THROUGH JULY 2008)

CBRE

Task Order Number	Lease Value	Total Commission	Total Commission %	Commission Credit	Commission Credit %	Net Commission	Net Commission %
GS-P-11-05-MA-1007	$ 92,443,813	$ 2,079,986	2.3%	$ 769,595	37.0%	$ 1,310,391	1.4%
GS-P-11-06-YT-0081	$ 51,488,372	$ 1,029,767	2.0%	$ 381,014	37.0%	$ 648,753	1.3%
GS-P-11-06-MA-0042	$ 49,976,807	$ 624,710	1.2%	$ 231,143	37.0%	$ 393,567	0.8%
GS-P-04-07-BV-5062	$ 30,120,637	$ 965,677	3.2%	$ 366,957	38.0%	$ 598,720	2.0%
GS-P-04-06-BV-5102	$ 27,388,916	$ 1,369,446	5.0%	$ 506,695	37.0%	$ 862,751	3.2%
GS-P-11-06-YT-0106	$ 25,768,843	$ 1,030,754	4.0%	$ 381,379	37.0%	$ 649,375	2.5%
GS-P-07-06-UA-5029	$ 22,076,369	$ 993,437	4.5%	$ 367,572	37.0%	$ 625,865	2.8%
GS-P-04-06-BV-5076	$ 20,894,432	$ 835,777	4.0%	$ 309,238	37.0%	$ 526,540	2.5%
GS-P-11-07-YT-0029	$ 18,318,401	$ 732,736	4.0%	$ 271,112	37.0%	$ 461,624	2.5%
GS-P-09-06-KS-5003	$ 13,168,465	$ 592,581	4.5%	$ 219,255	37.0%	$ 373,326	2.8%
GS-P-07-07-HH-5085	$ 11,212,820	$ 336,385	3.0%	$ 124,462	37.0%	$ 211,922	1.9%
GS-P-05-05-FY-0012	$ 10,820,467	$ 746,239	6.9%	$ 276,109	37.0%	$ 470,131	4.3%
GS-P-07-05-JU-1013	$ 9,919,730	$ 396,789	4.0%	$ 146,812	37.0%	$ 249,977	2.5%
GS-P-05-05-FY-0003	$ 8,692,918	$ 434,646	5.0%	$ 160,819	37.0%	$ 273,827	3.1%
GS-P-04-06-BV-5078	$ 7,235,110	$ 261,950	3.6%	$ 96,922	37.0%	$ 165,029	2.3%
GS-P-11-05-ZG-0273	$ 6,573,000	$ 262,920	4.0%	$ 97,280	37.0%	$ 165,640	2.5%
GS-P-06-06-GX-1015	$ 6,245,286	$ 187,359	3.0%	$ 69,323	37.0%	$ 118,036	1.9%
GS-P-02-06-CV-5004	$ 6,118,658	$ 238,602	3.9%	$ 88,824	37.2%	$ 149,778	2.4%
GS-P-09-05-KS-0035	$ 5,478,425	$ 107,610	2.0%	$ 39,816	37.0%	$ 67,794	1.2%
GS-P-11-07-YE-5015	$ 5,384,067	$ 161,522	3.0%	$ 59,763	37.0%	$ 101,759	1.9%
Total (top 20)	**$ 429,325,536**	**$ 13,388,892**	**3.1%**	**$ 4,964,088**	**37.1%**	**$ 8,424,804**	**2.0%**

JLL

Task Order Number	Lease Value	Total Commission	Total Commission %	Commission Credit	Commission Credit %	Net Commission	Net Commission %
GS-P-11-06-YT-0186	$ 58,968,000	$ 1,769,040	3.0%	$ 459,950	26.0%	$ 1,309,090	2.2%
GS-P-11-05-YE-0395	$ 48,696,200	$ 730,443	1.5%	$ 189,915	26.0%	$ 540,528	1.1%
GS-P-08-06-JE-1015	$ 42,452,432	$ 1,570,740	3.7%	$ 408,392	26.0%	$ 1,162,348	2.7%
GS-P-11-06-MA-0003	$ 35,581,775	$ 711,636	2.0%	$ 185,025	26.0%	$ 526,610	1.5%
GS-P-08-07-JC-5053	$ 32,019,600	$ 320,196	1.0%	$ 96,059	30.0%	$ 224,137	0.7%
GS-P-08-07-JC-0017	$ 29,040,000	$ 580,800	2.0%	$ 174,240	30.0%	$ 406,560	1.4%
GS-P-11-07-YT-0062	$ 18,155,610	$ 363,112	2.0%	$ 101,671	28.0%	$ 261,441	1.4%
GS-P-06-06-GX-1061	$ 16,687,472	$ 250,312	1.5%	$ 70,087	28.0%	$ 180,225	1.1%
GS-P-01-07-BW-0077	$ 13,179,925	$ 527,197	4.0%	$ 158,159	30.0%	$ 369,038	2.8%
GS-P-05-06-FY-5025	$ 12,585,673	$ 346,106	2.8%	$ 96,910	28.0%	$ 249,196	2.0%
GS-P-09-05-KS-0016	$ 12,435,370	$ 497,415	4.0%	$ 129,328	26.0%	$ 368,087	3.0%
GS-P-05-05-FY-0006	$ 11,693,845	$ 350,815	3.0%	$ 91,212	26.0%	$ 259,603	2.2%
GS-P-07-07-UU-5001	$ 11,654,540	$ 466,182	4.0%	$ 130,531	28.0%	$ 335,651	2.9%
GS-P-07-08-HH-5054	$ 7,621,778	$ 304,871	4.0%	$ 91,461	30.0%	$ 213,410	2.8%
GS-P-08-06-JC-1042	$ 7,338,210	$ 293,528	4.0%	$ 82,188	28.0%	$ 211,340	2.9%
GS-P-01-06-BW-5043	$ 6,701,127	$ 268,045	4.0%	$ 69,692	26.0%	$ 198,353	3.0%
GS-P-02-06-CV-0011	$ 6,384,255	$ 236,217	3.7%	$ -	0.0%	$ 236,217	3.7%
GS-P-07-05-JU-1019	$ 6,334,404	$ 253,376	4.0%	$ 65,176	25.7%	$ 188,200	3.0%
GS-P-09-07-KS-5033	$ 6,149,436	$ 245,977	4.0%	$ 67,474	27.4%	$ 178,504	2.9%
GS-P-09-07-KS-5034	$ 6,059,897	$ 151,497	2.5%	$ 42,419	28.0%	$ 109,078	1.8%
Total (top 20)	**$ 389,739,550**	**$ 10,237,507**	**2.6%**	**$ 2,709,891**	**26.5%**	**$ 7,527,616**	**1.9%**

Staubach

Task Order Number	Lease Value	Total Commission	Total Commission %	Commission Credit	Commission Credit %	Net Commission	Net Commission %
GS-P-11-05-YT-0199	$ 104,527,500	$ 2,025,000	1.9%	$ 627,750	31.0%	$ 1,397,250	1.3%
GS-P-11-05-YT-0261	$ 55,258,500	$ 1,933,928	3.5%	$ 599,518	31.0%	$ 1,334,410	2.4%
GS-P-08-06-JE-1009	$ 40,183,875	$ 1,607,355	4.0%	$ 498,280	31.0%	$ 1,109,075	2.8%
GS-P-11-07-YT-0210	$ 26,704,553	$ 801,137	3.0%	$ 248,352	31.0%	$ 552,784	2.1%
GS-P-11-06-YE-0228	$ 15,128,561	$ 453,857	3.0%	$ 140,696	31.0%	$ 313,161	2.1%
GS-P-11-06-MA-0090	$ 13,478,417	$ 404,353	3.0%	$ 125,349	31.0%	$ 279,003	2.1%
GS-P-04-05-BV-1035	$ 12,462,764	$ 489,839	3.9%	$ 151,850	31.0%	$ 337,989	2.7%
GS-P-09-06-KS-0045	$ 11,505,105	$ 460,204	4.0%	$ 142,663	31.0%	$ 317,541	2.8%
GS-P-09-06-KS-5082	$ 11,342,618	$ 453,705	4.0%	$ 140,648	31.0%	$ 313,056	2.8%
GS-P-05-06-FY-0016	$ 10,868,099	$ 411,618	3.8%	$ 127,603	31.0%	$ 284,015	2.6%
GS-P-04-07-BV-5052	$ 8,548,617	$ 341,945	4.0%	$ 106,003	31.0%	$ 235,942	2.8%
GS-P-04-05-BV-1023	$ 8,387,955	$ 335,518	4.0%	$ 104,011	31.0%	$ 231,508	2.8%
GS-P-11-05-YE-0397	$ 8,301,300	$ 279,008	3.4%	$ 86,492	31.0%	$ 192,515	2.3%
GS-P-05-06-FY-5027	$ 8,264,812	$ 304,382	3.7%	$ 94,358	31.0%	$ 210,024	2.5%
GS-P-07-06-JU-5009	$ 6,926,745	$ 277,070	4.0%	$ 85,892	31.0%	$ 191,178	2.8%
GS-P-05-07-FY-5025	$ 6,782,253	$ 249,256	3.7%	$ 77,269	31.0%	$ 171,987	2.5%
GS-P-03-06-DX-0023	$ 6,697,437	$ 267,897	4.0%	$ 83,048	31.0%	$ 184,849	2.8%
GS-P-07-06-UR-5037	$ 6,276,743	$ 251,070	4.0%	$ 77,832	31.0%	$ 173,238	2.8%
GS-P-02-06-CV-0028	$ 6,218,840	$ 40,034	0.6%	$ 12,411	31.0%	$ 27,624	0.4%
GS-P-09-06-KS-0006	$ 5,924,477	$ 148,099	2.5%	$ 45,911	31.0%	$ 102,188	1.7%
Total (top 20)	**$ 373,789,169**	**$ 11,535,274**	**3.1%**	**$ 3,575,936**	**31.0%**	**$ 7,959,337**	**2.1%**

Studley

Task Order Number	Lease Value	Total Commission	Total Commission %	Commission Credit	Commission Credit %	Net Commission	Net Commission %
GS-P-11-06-YA-0085	$ 354,319,179	$ 8,169,280	2.3%	$ 4,207,179	51.5%	$ 3,962,101	1.1%
GS-P-11-06-YA-0045	$ 295,854,823	$ 6,903,279	2.3%	$ 3,555,189	51.5%	$ 3,348,090	1.1%
GS-P-11-05-YT-0289	$ 154,481,103	$ 4,634,433	3.0%	$ 2,386,733	51.5%	$ 2,247,700	1.5%
GS-P-11-06-YE-5029	$ 107,915,269	$ 3,237,458	3.0%	$ 1,667,291	51.5%	$ 1,570,167	1.5%
GS-P-11-05-YT-0341	$ 52,175,385	$ 1,565,262	3.0%	$ 806,110	51.5%	$ 759,152	1.5%
GS-P-11-07-ZG-0271	$ 51,907,253	$ 1,557,218	3.0%	$ 801,967	51.5%	$ 755,251	1.5%
GS-P-11-07-YE-0190	$ 42,376,691	$ 605,650	1.4%	$ 311,910	51.5%	$ 293,740	0.7%
GS-P-08-06-JE-1012	$ 36,765,072	$ 1,470,603	4.0%	$ 757,361	51.5%	$ 713,242	1.9%
GS-P-11-07-YT-0193	$ 35,605,762	$ 1,068,173	3.0%	$ 550,109	51.5%	$ 518,064	1.5%
GS-P-07-07-HH-5155	$ 30,343,446	$ 910,303	3.0%	$ 468,806	51.5%	$ 441,497	1.5%
GS-P-04-06-BV-5081	$ 29,567,772	$ 1,182,711	4.0%	$ 609,096	51.5%	$ 573,615	1.9%
GS-P-05-06-FY-0004	$ 25,369,388	$ 1,268,469	5.0%	$ 807,064	63.6%	$ 461,406	1.8%
GS-P-04-06-BV-5082	$ 23,516,350	$ 940,654	4.0%	$ 484,437	51.5%	$ 456,217	1.9%
GS-P-04-06-BV-5083	$ 23,470,910	$ 938,836	4.0%	$ 483,501	51.5%	$ 455,336	1.9%
GS-P-04-06-BV-5080	$ 23,248,598	$ 929,944	4.0%	$ 478,921	51.5%	$ 451,023	1.9%
GS-P-11-05-ZG-0244	$ 20,513,794	$ 431,589	2.1%	$ 222,268	51.5%	$ 209,321	1.0%
GS-P-07-05-JU-1012	$ 18,670,720	$ 746,829	4.0%	$ 384,617	51.5%	$ 362,212	1.9%
GS-P-11-06-YE-0574	$ 18,416,059	$ 552,482	3.0%	$ 284,528	51.5%	$ 267,954	1.5%
GS-P-07-06-UF-5026	$ 17,999,313	$ 719,973	4.0%	$ 370,786	51.5%	$ 349,187	1.9%
GS-P-04-06-BV-5075	$ 17,242,000	$ 689,680	4.0%	$ 355,185	51.5%	$ 334,495	1.9%
Total (top 20)	**$ 1,379,758,887**	**$ 38,522,826**	**2.8%**	**$ 19,993,057**	**51.9%**	**$ 18,529,769**	**1.3%**

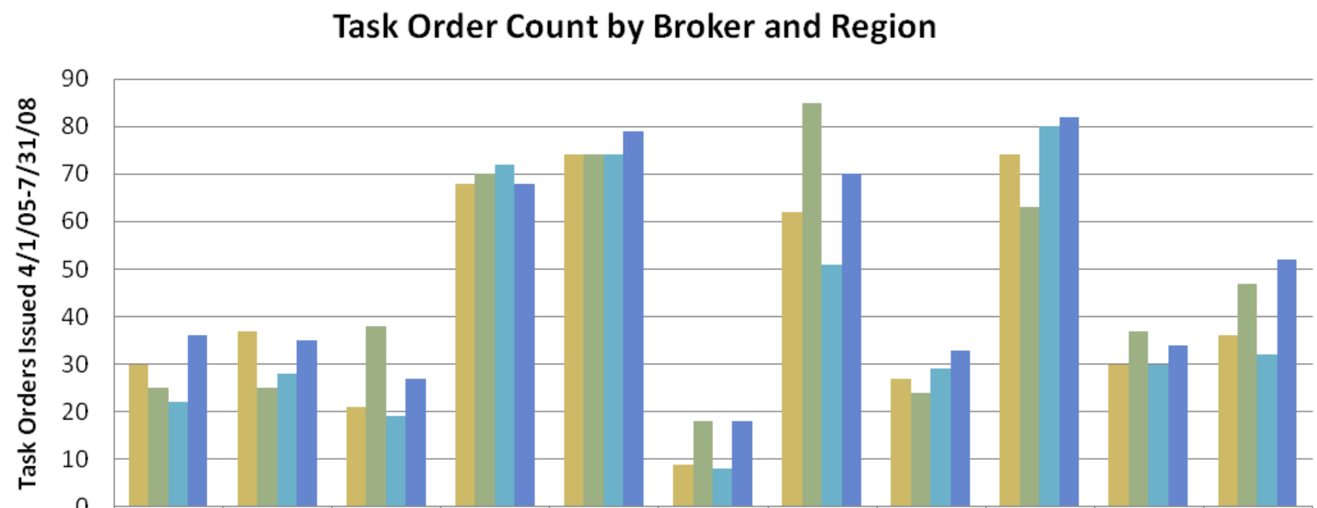
APPENDIX E

AVERAGE COMMISSION RATES PER BROKER (THROUGH JULY 2008)

Broker	Total Lease Value (millions)	Highest Lease Value (millions)	Average Lease Value (millions)	Total Commission (millions)	Average Total Commission	Tenant Credits (millions)	Average Commission Credit	Net Commission (millions)	Average Net Commission
Studley	$ 1,694.7	$ 354.3	$ 8.1	$ 51.2	3.02%	$ 26.3	51.5%	$ 24.9	1.47%
JLL	$ 576.9	$ 59.0	$ 2.8	$ 17.2	2.98%	$ 4.5	26.4%	$ 12.6	2.19%
Staubach	$ 556.3	$ 104.5	$ 3.5	$ 18.2	3.28%	$ 5.5	30.2%	$ 12.7	2.29%
CBRE	$ 602.2	$ 92.4	$ 4.3	$ 20.9	3.47%	$ 7.6	36.6%	$ 13.2	2.20%
Total	**$ 3,430.1**		**$ 4.8**	**$ 107.5**	**3.13%**	**$ 44.0**	**41.0%**	**$ 63.4**	**1.85%**

APPENDIX F

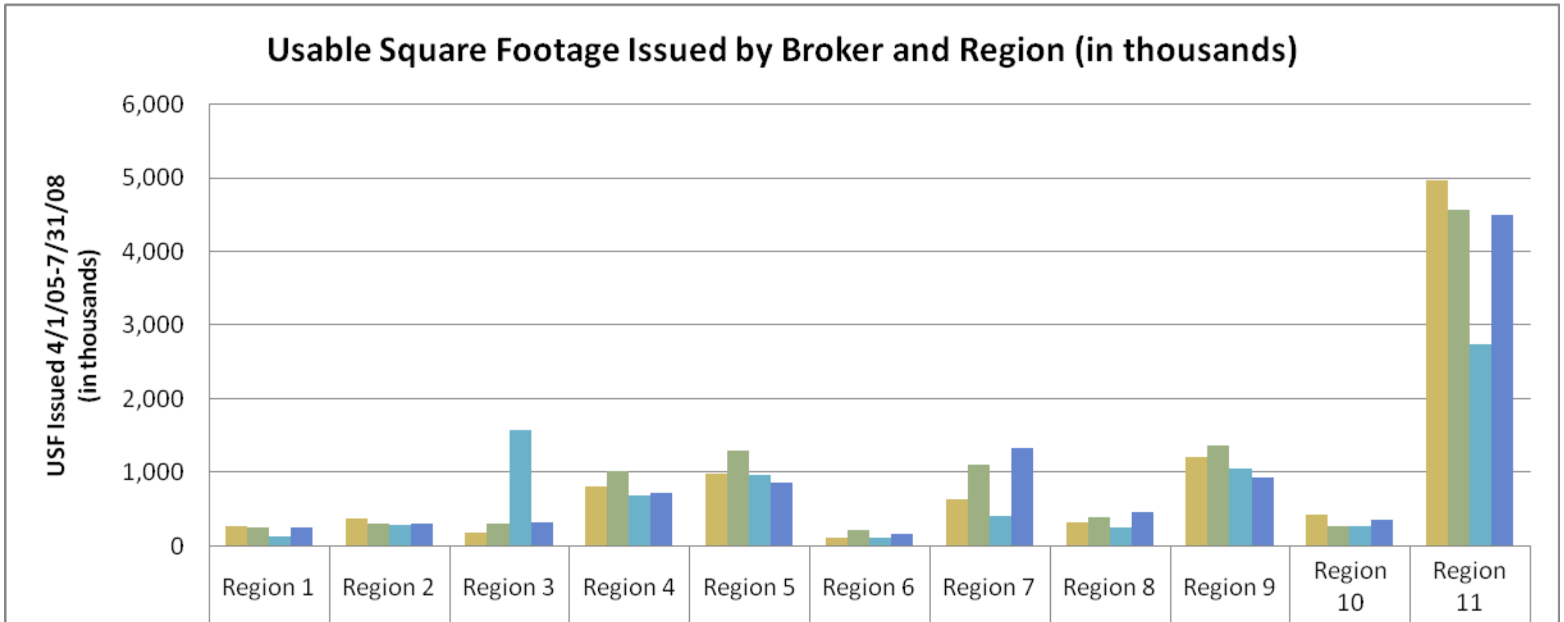
TASK ORDERS ISSUED BY BROKER AND REGION



	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7	Region 8	Region 9	Region 10	Region 11
CBRE	30	37	21	68	74	9	62	27	74	30	36
JLL	25	25	38	70	74	18	85	24	63	37	47
Staubach	22	28	19	72	74	8	51	29	80	30	32
Studley	36	35	27	68	79	18	70	33	82	34	52

APPENDIX G

USABLE SQUARE FOOTAGE ISSUED BY BROKER AND REGION



	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7	Region 8	Region 9	Region 10	Region 11
CBRE	270.9	384.6	199.0	822.4	996.3	112.9	643.9	334.7	1,214.5	424.9	4,953.5
JLL	253.9	310.5	305.6	1,022.0	1,303.9	226.3	1,118.2	394.5	1,376.3	275.2	4,566.2
Staubach	146.8	298.0	1,570.0	693.7	973.6	120.7	412.5	257.2	1,063.9	272.2	2,742.9
Studley	262.9	318.1	332.7	721.5	872.3	174.6	1,331.3	469.2	931.6	367.9	4,489.0

APPENDIX H

REPORT DISTRIBUTION

Commissioner, Public Buildings Service (P)

Regional Administrators, Public Buildings Service (4A, 5A, 9A, and WA)

Internal Control and Audit Division (BEI)

Internal Control and Audit Compliance Team, PBS Financial Operations Division (PFF)

Inspector General and Deputy Inspector General, Office of Inspector General (J)

Assistant Inspector General for Audits, Office of Audits, Office of Inspector General (JA)

Assistant Inspector General for Investigations, Office of Investigations, Office of Inspector General (JI)

Audit Operations Office, Office of Audits, Office of Inspector General (JAO)

Deputy Assistant Inspector General for Audits, Real Property Audit Office, Office of Inspector General (JA-R)

Regional Inspectors General for Auditing, Office of Inspector General (JA-4, JA-5, and JA-9)

Regional Inspectors General for Investigations, Office of Inspector General (JI-4, JI-5, JI-9, and JI-W)

Chief Financial Officer (B)